

REMARKS

Claims 1-20 are pending in the present application. In the Final Office Action mailed December 2, 2008, the Examiner rejected claims 1 and 5-8 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The Examiner next rejected claims 1-20 under 35 U.S.C. §102(b) as being anticipated by Parkhurst et al. (USP 5,412,372).

Without acquiescing to the rejections of claims 1-20, Applicant has elected to file a Request for Continued Examination concurrently with the present response. Applicant has amended claims 1, 8-11, and 14-19 to clarify what is called for therein, amending the element “conductor carrier strip” to “conductor carrier.” As shown in FIG. 3 of the present Application, the conductor carrier 10 would more accurately be described as a layer or planar surface than a “strip” as was previously called for. The amendment to claims 1, 8-11, and 14-19 thus is intended to aid the Examiner in more accurately assessing this element of the claims for purposes of examination and for applying the cited prior art reference. In addition to the amendments to claims 1, 8-11, and 14-19, claim 21 is also newly added.

Applicant has retained new counsel, for which an appropriate Power of Attorney was submitted on February 26, 2009. Applicant respectfully requests reconsideration of the outstanding rejections. Applicant sets forth below [1] why the claims do not contain new matter (§112 rejection), [2] distinctions between the claims and the prior art reference (§102(b) rejection), and [3] an explanation as to why the Examiner’s interpretation of the prior art reference is incorrect (interpretation of Parkhurst et al. renders the dispenser of Parkhurst et al. inoperable for its intended purpose).

Rejection under 35 U.S.C. §112, first paragraph

The Examiner rejected claims 1 and 5-8 under 35 U.S.C. §112, first paragraph, stating that “[t]he claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s)... had possession of the claimed invention.” *Final Office Action*, December 2, 2008, p. 2. Specifically, the Examiner asserted that “[t]he term bridge part used in place of spars is not equivalent” and that “[a] bridge part is a link from one point to the other and a spar is a gap.” *Id.* Applicant respectfully disagrees. Initially, Applicant would note that the Examiner’s definition of a spar as constituting “a gap” is inaccurate and not consistent with any common definition of the term. The Examiner has provided no support to the contrary. Additionally, Applicant is allowed to be his own lexicographer. *See MPEP §2173.01*. That is, “Applicant may use functional language,

alternative expressions, negative limitations, or any style of expression or format of claim which makes clear the boundaries of the subject matter for which protection is sought.” The bridge part (i.e., “spar”) called for in each of claims 1 and 5-8 is described in the Specification, which sets forth that “the coverings 30 are each connected by means of at least two spars 42, 43 to the conductor carrier 10, whereby each spar 42, 43 represents an interruption of the stamped line 41....”. *Specification*, ¶[0029]. That is, as shown in Fig. 3 of the Application, the spars 42, 43 form bridges between covering 30 (surrounded by stamped line 41) and the rest of the conductor carrier 10. The Specification goes on to state that “[t]he spars 42, 43 are so distributed about the circumference of the stamped line 41 in such a manner that tablet removal is only possible if at least one spar 42 or 43 is broken....” *Specification*, ¶[0030]. The bridge parts (i.e., spars 42, 43) are thus described in the Specification and are also clearly shown in FIG. 3 of the Application.

In light of the above, Applicant believes that the rejection of claims 1 and 5-8 under 35 U.S.C. §112, first paragraph, is improper and respectfully requests withdrawal thereof.

Rejection under 35 U.S.C. §102(b)

The Examiner rejected claim 1 under 35 U.S.C. §102(b) as being anticipated by Parkhurst et al. Applicant respectfully disagrees with the rejection and believes that Parkhurst et al. fails to teach that which is called for in claim 1. Elements specifically called for in claim 1 are wholly absent from the teachings of Parkhurst et al. and thus the rejection of claim 1 under 35 U.S.C. §102(b) is improper, as “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *MPEP 2131; citing Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). (emphasis added)

Claim 1 calls for, in part, a blister package arrangement with a blister package and a conductor carrier connected to it. Openings in the conductor carrier are directed toward pockets of the blister package and are formed by stamped lines positioned within the conductor carrier that surround each of the pockets in a ring shape. Claim 1 also sets forth that the openings in the conductor carrier are interrupted by at least two bridge parts by means of which a covering, separated by the stamped line out of the conductor carrier and covering the pocket, is connected with the conductor carrier. The bridge parts are so distributed about the periphery of the stamped line that, when a tablet is pressed out from a pocket, at least one bridge part is broken. Claim 1 further calls for the conductor carrier to include individual conductors each of which extends

from an individual connecting pad over at least the one bridge part that is severed upon tablet removal.

For purposes of allowing the Examiner to better interpret the elements of claim 1, a description of the claim elements, as set forth in the Specification, is provided below. The Specification sets forth a blister package 1 having a conductor carrier 10 connected (e.g., adhered) thereto. As shown in FIG. 3, an opening 4 in the conductor carrier 10 is assigned to each pocket 3 of the blister package 1. The opening 4 for tablet removal is formed by a ring-shaped, closed stamped line 41, positioned in the conductor carrier 10, which separates the surrounding area from the portion of conductor carrier 10 that covers the area of an assigned pocket 3 of the blister package 1, i.e., covering 30. *Specification, ¶[0026]*. The coverings 30 are each connected by means of at least two spars 42, 43 to the conductor carrier 10, whereby each spar 42, 43 represents an interruption of the opening 4/stamped line 41. *Specification, ¶[0029]*. The spars 42, 43 are so distributed about the circumference of the stamped line 41 in such a manner that tablet removal is only possible if at least one spar 42 or 43 is broken, and the covering 30 is pressed up out of the plane of the conductor carrier 10. *Specification, ¶[0030]*. An individual conductor 52 extends over spars 42, 43 and cover 30 such that, upon breaking of the at least one spar 42, 43 during removal of a tablet from pocket 3, the individual conductor 52 is also broken along with the broken spar 42, 43. *Specification, ¶[0031]-[0033]*; see also FIG. 5.

Parkhurst et al. fails to teach a blister package arrangement as called for in claim 1, but instead discloses a monitored medication dispenser 110 having a blister package 30 positioned on a medication panel 114 having holes 122 formed therein corresponding to pockets of the blister package 30. *Parkhurst et al.*, Col. 7, Ins. 27-30. A sensor sheet 148, best shown in FIGS. 6-8 of Parkhurst et al., is positioned within medication panel 114 and adjacent the blister package 30 to sense the removal of tablets therefrom. The sensor sheet is comprised of non-conductive outer layers 150 and 152 and two conductive, metallic foil, circuit layers 154 and 156 therebetween. *Parkhurst et al.*, Col. 9, Ins. 39-42. The circuit layer 154 provides a common return or supply circuit for all of the sensing paths in the sensor sheet. The signal circuit elements 156 overlap the common circuit layer at each of the pockets in the blister pack 30, thereby creating simple normally-closed switch structures at each of the sensing regions. *Parkhurst et al.*, Col. 9, Ins. 42-48. The two outer layers 150, 152 have slits 158 in the area of the sensing region so as to reduce the force required to push a medication through the sensor sheet 148. *Parkhurst et al.*, Col. 9, Ins. 59-62. Openings 164 are also formed in the outer layers 150 and 152 to allow all the signal circuits 156 and the common circuit 154 to be contacted by electrical connection means, such as

elastomeric connectors 180, 181, which further connect to printed wiring board traces 172 and to the electronic housing 112 of the medication dispenser. *Parkhurst et al.*, Col. 9, Ins. 48-51 and Col. 10, Ins. 12-17.

In particular, FIG. 6 shows a top view of the sensor sheet 148 and its arrangement of circuit layers 154 and 156, slits 158, openings 164, and elastomeric connectors 180, 181 with respect to the underlying blister pack 30. FIG. 6 is broken down herebelow in order to clarify what is being taught in Parkhurst et al. FIGS. 6A and 6B, inserted below, show outer layer 152 and circuit layer 154, respectively. FIG. 6A represents each of the identical top and bottom outer insulating layers 150, 152, which each include the push-out slits 158 and contact holes 164, through which electrical contact can be made to the common contact layer 154 of FIG. 6B.

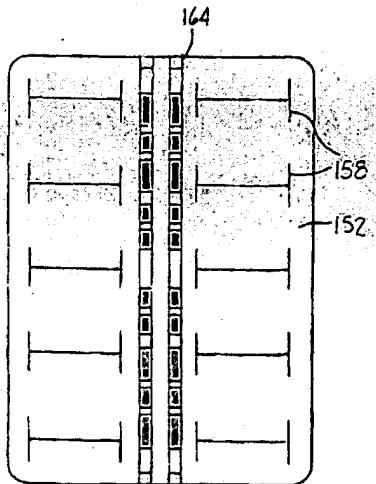


FIG. 6A

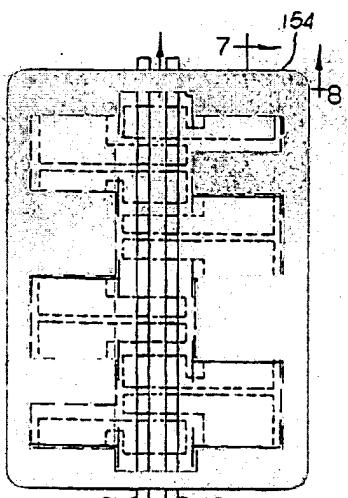


FIG. 6B

Contact holes 164 also provide for electrical contact to the individual signal sheets 156 (gray color), as shown in FIG. 6C below. The elastomeric connectors 180, 181 shown in FIG. 6D extend into openings 164 to form an electrical connection to circuit layers 154 and 156.

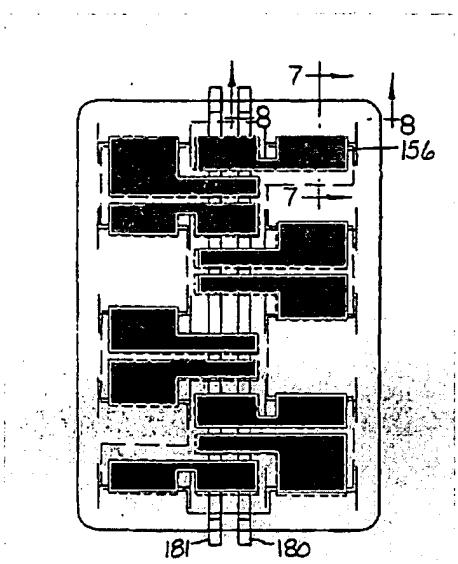


FIG. 6

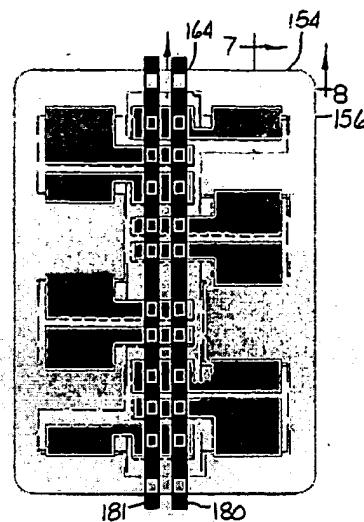


FIG. 6

FIG. 6C

FIG. 6D

When a tablet is pushed out of a pocket of blister pack 30, the overlapping metal sheets of the common contact 154 and of the individual signal sheets 156 separate in the area where they overlap. This interrupts a current flow (for example) in sensor sheet 148.

Parkhurst et al., however, does not teach that which is called for in claim 1. That is, there is no teaching in Parkhurst et al. of openings in the conductor carrier (i.e., sensor sheet 148) formed by stamped lines positioned within the conductor carrier that surround each of the pockets of the blister pack in a ring shape. The only "openings" formed in sensor sheet 148 are openings 164, which do not "surround each of the pockets of the blister pack in a ring shape," but instead are aligned down a central area of the sensor sheet 148 to allow for an electrical connection between elastomeric connectors 180, 181 and circuit layers 154 and 156. Additionally, the slits 158 formed in sensor sheet 148 (i.e., in insulating layers 150, 152) are not "stamped lines positioned within the conductor carrier that surround each of the pockets of the blister pack in a ring shape" as called for in claim 1.

Parkhurst et al. also fails to teach at least two bridge parts that interrupt the ring shaped stamped line formed in the conductor carrier. No such feature is taught in Parkhurst et al. There are no "bridge parts" formed on/in circuit layer 154, nor can signal circuit elements 156 be considered bridge parts that "interrupt the ring shaped stamped line formed in the conductor carrier," as called for in claim 1. That is, as there are no ring shaped openings/stamped lines formed in sensor sheet 148, there logically cannot be any "bridge parts" that interrupt such

openings/stamped lines. As Parkhurst et al. does not teach “at least two bridge parts,” it clearly also does not teach the further limitation of claim 1 calling for “the at least two bridge parts to be distributed about the periphery of the stamped line such that, when a tablet is pressed out from a pocket, at least one bridge part is broken.” Furthermore, as no bridge parts are taught as being formed in the conductor carrier (i.e., sensor sheet 148) of Parkhurst et al., the cited reference also cannot teach the “individual conductors each of which extends from an individual connecting pad over at least the one bridge part that is severed upon tablet removal” called for in claim 1. Each of the elements of claim 1 set forth above is completely absent from Parkhurst et al. and there is simply no teaching provided therein of a similar configuration.

In an attempt to read Parkhurst et al. on the elements of claim 1, the Examiner has distorted the teachings of Parkhurst et al. In characterizing the teachings of the cited reference, the Examiner stated, in part, that Parkhurst et al. discloses:

a blister package (20, 30) and a conductor carrier strip (180) connected to it, wherein openings (122) in the conductor carrier strip (180)... are formed by stamped lines (164) positioned within the conductor carrier strip (180) that surround each of the pockets (22, 32) in a ring shape, and that are interrupted by at least two bridge part (172) by means of which a covering (148), separated by the stamped line (164) out of the conductor carrier strip (180) and covering (148) the pocket (22, 32), is connected with the conductor carrier strip (180); wherein the bridge part (172) are so distributed about the periphery of the stamped line (164) that, when a tablet (21) is pressed out from a pocket (22, 32), at least one bridge part (172) is severed....

Final Office Action, supra at 3.

The above characterization of Parkhurst et al. distorts its teachings in numerous ways. Firstly, the “openings (122) in the conductor carrier strip (180)” identified by the Examiner is inaccurate. Openings 122 in Parkhurst et al. refer to openings formed in medication panel 114, which is nothing more than a housing to which blister pack 30 is aligned/attached. Openings 122 are not formed in the “conductor carrier strip 180.” In fact, Parkhurst et al. does not teach any openings formed in “conductor carrier strip 180.” As Parkhurst et al. does not teach any openings formed in “conductor carrier strip 180,” the Examiner’s further assertion that “stamped lines (164) positioned within the conductor carrier strip (180) [] surround each of the pockets (22, 32) in a ring shape” further mischaracterizes the teachings of the cited reference. The “stamped lines 164” referred to by the Examiner refer to openings formed in insulating layers 150, 152 of sensor sheet 148, not to stamped lines/openings in “conductor carrier strip 180.” Furthermore, as shown in FIG. 6 of Parkhurst et al., the “stamped lines 164” are not in a ring shape that would surround each of the pockets 22, 32 in blister pack 30, but rather are aligned down a central area of the

sensor sheet 148 (i.e., aligned with elastomeric connectors 180, 181) to allow for an electrical connection between elastomeric connectors 180, 181 and circuit layers 154 and 156.

As another example of the Examiner's distortion of the teachings of Parkhurst et al., the Examiner identified traces 172 as forming "at least two bridge part[s] (172)" that interrupt the "stamped lines (164)," with "the bridge part[s] (172) [] so distributed about the periphery of the stamped line (164) that, when a tablet (21) is pressed out from a pocket (22, 32), at least one bridge part (172) is severed." Again, such an assertion by the Examiner is a gross distortion of the teachings of Parkhurst et al. Firstly, it is noted that the "at least two bridge part[s] (172)" identified by the Examiner are not formed as part of "conductor carrier strip (180)" and, for this reason alone, would not teach what is called for in claim 1. Furthermore, the "at least two bridge part[s] (172)" identified by the Examiner are never severed in the monitored medication dispenser 110 of Parkhurst et al. As stated above, the "at least two bridge part[s] (172)" identified by the Examiner are in fact traces 172 on an underlying wiring board that are in contact with one or more of the conductive layers of the elastomeric connectors 180, 181. *See Parkhurst et al., Co. 10, Ins. 12-17.* The traces 172 provide an "appropriate electrical communication with the circuitry in the electronic housing 112." *Id.* Thus, were the traces 172 severed when a tablet (21) is pressed out from a pocket (22, 32), as suggested by the Examiner, then there would be no electrical communication from circuit layers 154, 156 and elastomeric connectors 180, 181 to electronic housing 112, and thus no indication by monitored medication dispenser 110 of when a tablet is removed. Thus, the Examiner's interpretation of Parkhurst et al. (in attempting to teach claim 1) renders the monitored medication dispenser 110 inoperable for its very own intended purpose.

In light of at least the above, Applicant believes that Parkhurst et al. fails to anticipate that which is called for in claim 1, as the cited reference clearly does not "expressly or inherently describe" each and every element set forth in claim 1 as required under MPEP 2131. Therefore, claim 1 and the claims dependent therefrom are patentably distinct over Parkhurst et al.

The Examiner also distorted the teachings of Parkhurst et al. in order to teach that which is called for in each of dependent claims 2-20. With respect to claim 15, for instance, the Examiner alternatively refers to the conductive carrier called for in the present claims as "conductive carrier strip 180" and "conductive carrier strip 154." Such interchanging of elements in Parkhurst et al. to teach elements of the present claims gives the impression that the Examiner is merely picking features at random from the cited reference in order to teach the present claims,

which is clearly improper. For this additional reason, Applicant believes that each of claims 2-20 is patentably distinct over Parkhurst et al.

Claim 21 is newly added and is believed to be patentably distinct over Parkhurst et al. for the reasons set forth above with respect to claim 1.

Therefore, in light of at least the foregoing, Applicant respectfully believes that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 1-21.

A fee in the amount of \$26.00 is concurrently being paid via EFS-Web for fees associated with entering the claims newly presented herein.

Applicant appreciates the Examiner's consideration of these Amendments and Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,

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General Authorization and Extension of Time

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-2623. Should no proper payment be enclosed herewith, as by credit card authorization being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-2623. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extensions under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-2623. Please consider this a general authorization to charge any fee that is due in this case, if not otherwise timely paid, to Deposit Account No. 50-2623.

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